

19 MAG 1234.

ORIGINAL

Approved: \_\_\_\_\_

ADAM S. HOBSON

Assistant United States Attorney

Before: HONORABLE HENRY PITMAN  
 United States Magistrate Judge  
 Southern District of New York

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	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	
	:	Violation of
- v. -	:	21 U.S.C. § 846
	:	
LUIS JIMENEZ,	:	COUNTY OF OFFENSE:
	:	Bronx
a/k/a "David James,"	:	
	:	
Defendant.	:	
	:	
- - - - -	x	

SOUTHERN DISTRICT OF NEW YORK, ss.:

ANDREW R. PERRY, being duly sworn, deposes and says that he is a Special Agent with the Drug Enforcement Administration ("DEA"), and charges as follows:

COUNT ONE

1. From at least in or about November 2017 up to and including the present, in the Southern District of New York and elsewhere, LUIS JIMENEZ, a/k/a "David James," the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that LUIS JIMENEZ, a/k/a "David James," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1).

3. The controlled substances that LUIS JIMENEZ, a/k/a "David James," the defendant, conspired to distribute and possess with intent to distribute were a quantity of mixtures and

substances containing a detectable amount of oxycodone and alprazolam, in violation of 21 U.S.C. § 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

4. I am a Special Agent with the DEA and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, and my review of documents and other evidence. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### Overview

5. Since at least in or about November 2017, LUIS JIMENEZ, a/k/a "David James," the defendant, conspired with others to distribute controlled substances, including oxycodone, over the Internet and through the mail. Members of the conspiracy shipped hundreds of orders of controlled substances around the world, including to the United States. JIMENEZ and others facilitated this distribution of controlled substances by filling orders for oxycodone and other controlled substances and mailing those controlled substances throughout the United States, including to the Southern District of New York.

#### November 2017 In-Person Undercover Buy

6. Based on my discussions with members of law enforcement and my review of law enforcement records and reports, I know the following:

a. On or about November 16, 2017, the DEA conducted an undercover operation to purchase oxycodone.

b. A confidential source working with the DEA ("CS-1")<sup>1</sup> had previously arranged with a contact in the Dominican Republic ("CC-1") to purchase approximately 1,700 pills of oxycodone in the Bronx.

c. CS-1's contact had provided CS-1 with a telephone number and instructed CS-1 to contact that number using an internet messaging service so CS-1 could arrange to pick up the narcotics. CS-1 then contacted that person and arrange to pick up the narcotics at an address in the Bronx, New York.

d. On or about November 16, 2017, CS-1 and an undercover agent ("UC-1") met LUIS JIMENEZ, a/k/a "David James," the defendant, at the agreed-upon location in the Bronx, where JIMENEZ gave CS-1 and UC-1 a white plastic bag containing approximately 1,662 pills of suspected oxycodone.

#### 2018 Undercover Internet Operations

7. In or about June 2018, I acted in an undercover capacity to communicate with an email address (the "CC-2 Email Account") to purchase the controlled substance oxycodone. Based on my participation in that investigation, I know the following:

a. No prescription was ever provided to the CC-2 Email Account.

b. On or about June 23, 2018, I received an email from the CC-2 Email Account stating: "Tomorrow your sample of Oxy 40 mg will get shipped. Other than that below are some other USA made original products from USA with prices: Perc \$20 Ambien \$4 Xanax \$ Tramadol 50mg \$2 Tramadol 100mg \$2.25. Shipping will be free for all these medicines. Do let me know if you need any other pills. Thanks!"

c. On or about July 12, 2018, I retrieved a package from an undercover mailbox at the New York address I had provided to the CC-2 Email Account. The return address on the package was handwritten as "David James" at an address in the Bronx, New York. The envelope contained five pills which, based on my training and

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<sup>1</sup> CS-1 is providing information to law enforcement in exchange for financial compensation and has been doing so since approximately 2014. CS-1 has no prior arrests. To date, the information CS-1 has provided has been credible and reliable and corroborated by independent investigation.

experience, appeared to consist of two pills of alprazolam, one pill of endocet, and two pills of oxycodone.<sup>2</sup>

8. Based on my discussions with members of law enforcement and my review of reports and records provided by law enforcement, I know the following:

a. In or about July 2018, members of another DEA task force had undercover communications with an online pharmacy suspected of the illegal distribution of controlled substances. An undercover Task Force Officer ("UC-2") placed an order for twenty tablets of Percocet, which is a brand name for the controlled substance oxycodone, and instructed that the pills be mailed to an undercover mailbox in Idaho. UC-2 did not provide a prescription for the Percocet that the undercover ordered.

b. On or about July 19, 2018, the DEA recovered a package from the undercover mailbox. The return address was from a "David James" at an address in Yonkers, New York. Inside the package were 22 tablets and a typed letter dated July 15, 2018 that said the following:

Hello my name is David and as you can see I'm the one who is supplying your supplier. The reason that I'm writing to you is to save you a lot of money if you start to get your orders directly from me I will give you a 200 dollars discount on the first order and after that you will keep saving money because I will give you better prices than what you are getting now. Please email me at [the "James Email Account"]. And you will see that this will be the better decision that you have made. Thank you and please email back as soon as you read this letter.

SINCERELY,

DAVID JAMES

c. On or about July 19, 2018, a member of a DEA task force, acting in an undercover capacity, began communicating with the James Email Account. In emails, the user of the James Email Account stated, in substance and in part, that he would provide a

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<sup>2</sup>Based on my training and experience, I know that "alprazolam" is the controlled substance sold under the brand name Xanax, and "endocet" is the brand name of a tablet that contains oxycodone and acetaminophen.



\$200 discount and cheaper prices if the undercover began ordering pills from the user of the James Email Account directly.

#### Email Records

9. On or about September 18, 2018, the Honorable Ona T. Wang signed a search warrant for the contents of the James Email Account. I have conducted a review of the data provided by Google, Inc. in response to that search warrant. Based on that review, I learned, among other things, that between July 10, 2018 and September 18, 2018, the James Account had approximately 569 emails, of which approximately 513 appeared, based on my training, experience, and participation in this investigation, to relate to the trafficking of pharmaceuticals, including oxycodone, or the transfer of money for the payment of pharmaceuticals. These emails included the following:

a. On or about July 20, 2018, an email address ("Customer-1") sent the James Email Account an email stating, in part: "I recently received the letter enclosed with my order. I will be ordering soon and will order through you. Thank you!!" On August 1, 2018, Customer-1 sent the James Email Account an email that said, in part: "Same order as last time. Please send price and transaction information." Later the same day, the James Email Account replied with multiple emails, saying, among other things, "Hi [Customer-1] can you send me the mtcn number if did the western union please?" and "Remember \$900 for 60 pills." On or about August 27, 2018, the James Email Account emailed Customer-1 an email stating, in part, "Hey [Customer-1], here is the address to send the money. Thanks." The James Email Account then provided an address in Yonkers, New York (the "Yonkers Address").

b. On or about September 17, 2018, the James Email Account sent an email address ("Customer-2") an email saying, in part: "Ook [Customer-2], here is the price for Xanax 2mg[.] 30 pills for \$25[.] 60 pills for \$400[.] 90 pills for \$580[.] Just let me know how many pills do you need and I will send them for you tomorrow." Later the same day, the James Email Account sent another email to Customer-2 stating, in part, "Ok not problem [Customer-2], I can send 90 pills for you next day but you will have to pay me \$630 dollar and you will get them tomorrow. Here is the information to send money." The James Email Account then provided the Yonkers Address.

#### January 2019 Undercover Operation

10. Based on my own participation in a January 2019 undercover operation, as well as my discussions with other members

of law enforcement and my review of reports and records prepared by law enforcement, I know, among other things, the following:

a. On or about January 6, 2018, UC-2 began negotiating the purchase of oxycodone with the James Email Account. In the course of those negotiations, the James Email Account directed UC-2 to communicate using a Skype account associated with the James Email Account (the "James Skype Account"). In these Skype communications, UC-2 received photographs from the James Skype Account of what were said to be 10mg and 40mg oxycodone tablets. UC-2 negotiated to purchase ten 40-miligram oxycodone tablets for \$300 and was instructed to send the money to "Luis Jimenez" at the Yonkers Address.

b. On or about January 8, 2019, UC-2 received a communication from the James Skype Account that included a photograph of a United States Postal Service ("USPS") Priority Mail envelope and a tracking number (the "Tracking Number"). UC-2 was told that the package would be mailed that afternoon.

c. Also on or about January 8, 2019, DEA agents, including myself, conducted surveillance of the Yonkers Address. During this surveillance, at approximately 4:44 p.m., I observed LUIS JIMENEZ, a/k/a "David James," the defendant, exit the Yonkers Address with a female ("Woman-1") and enter a vehicle parked in the driveway (the "Vehicle"). Woman-1 was carrying a large shopping bag (the "Bag") that appeared to be weighted. JIMENEZ and Woman-1 then drove away.

d. Approximately fifteen minutes later, the Vehicle was observed outside a USPS office in Yonkers (the "Yonkers Post Office"). Woman-1 was observed inside the Yonkers Post Office with the Bag. At approximately 5:03 p.m., Woman-1 was observed approaching the counter inside the Yonkers Post Office, removing several boxes and at least one document-sized envelope from the Bag, and place the items on the counter. A few minutes later, Woman-1 was observed returning to the Vehicle. Woman-1 was still carrying the Bag but it now appeared to be empty. Later in the afternoon, the undercover received a message from the James Skype Account stating that the package of oxycodone had been sent.

e. On or about January 10, 2019, a package with the Tracking Number arrived at the address UC-2 had provided to the user of the James Skype Account. The package contained pills that were submitted to a DEA lab for testing, where they tested positive for oxycodone.

f. I have reviewed USPS records which show that the package with the Tracking Number was mailed from the Yonkers Post Office on January 9, 2019 at approximately 5:04 p.m., i.e., the same time Woman-1 was observed mailing packages.

Search of the Defendant's Apartment

11. Based on a review of information provided by Experian, I know that as of June 14, 2018, LUIS JIMENEZ, a/k/a "David James," the defendant, was using the Yonkers Address as his address.


12. On or about January 30, 2019, the Honorable Barbara Moses, United States Magistrate Judge for the Southern District of New York, signed a warrant authorizing the search of the Yonkers Address. On or about February 5, 2019, members of law enforcement, including myself, executed the search warrant. Based on my participation in the search, I know the following:

a. LUIS JIMENEZ, a/k/a "David James," the defendant, was found inside the Yonkers Address, and appeared to be living there.

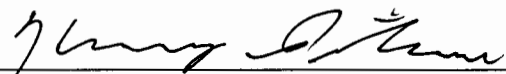
b. A search of the Yonkers Address revealed large quantities of what appeared, based on my training and experience, to be oxycodone.

c. A search of the Yonkers Address also revealed shipping labels and envelopes that appeared, based on my training and experience and participation in this investigation, to be used for mailing pharmaceuticals.

WHEREFORE, deponent respectfully requests that a LUIS JIMENEZ, a/k/a "David James," the defendant, be imprisoned or bailed, as the case may be.

  
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ANDREW R. PERRY  
Special Agent  
Drug Enforcement Administration

Sworn to before me this  
5<sup>th</sup> day of February, 2019

  
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HONORABLE HENRY PITMAN  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK